

INFORMATION

For the Earl and Countess of Southerland and their Children, as followeth.

I That the said Countess is the Eldest Daughter of *David* late Earl of *Weyms*, who died in the year 1679. without Male Issue; whereby the said Countess hath undoubted legal Right for succeeding in the Estate and Honours of her said Father the Earl of *Weyms*, according to the Laws and Customs of the Kingdom of *Scotland*, which allows not a Father to Disinherit his Eldest Lawful Child, and to prefer a Younger to their Inheritance, unless the Eldest were proved a Fool, or a Person grossly Vicious, or Profligate, or had Married Dishonourably, to Disgrace the Family, and contrary to Will of their Parents; none of which can be alledged against the said Countess, who is not accounted a Fool, nor hath done any thing which will speak her Vicious or Profligate: And for her Matches, first and last, the Family hath no Dishonour by them, and she engaged in them, by the special command of her Father.

II. It is to be considered in the 2^d. place, that the late Earl of *Weyms* did not Purchase his Estate himself, but received it from his Ancestors for several hundreds of years: So that by the Ancient Customs of the Nation, he had no Right to dispose of that Estate, or put it by his Lawful Heir, since it was none of his own Purchase.

III. Thirdly. It is to be considered, that the said Earl of *Weyms* did in *June* or *July* 1649. Dispose all his Estate and Honours (failing of Lawful Heirs of his own Body) to the said Countess, without any Clause of Revocation; and Entailed it not only to her, but to any Child of hers, Son or Daughter (the Eldest being first in the Provision) upon condition they assume the Name, and bear the Coat of Arms belonging to the Family of *Weyms*: Yet in a little time after, the said Countess her Mother being Sick, and on her death Bed; did at the said Earl's desire, request her Daughter (upon the said Earl of *Weyms* his Importunity) to give up to his Custody the said Disposition and Entail, made in the said Countess her Favours, because he did solemnly Swear, that he should never destroy the same, but kept it intire for the behoove of the said Countess, and her Children failing of his Lawful Sons, of whom he had then two alive. The said Countess being loath to disoblige her Father, or disobey her then dying Mother, brought the said Entail and gave it into her Mothers hands, who said to the said Earl of *Weyms*, My Daughter and I Trust you with this Evident of hers, upon condition you will not destroy it, nor do any thing in prejudice of it: That in case you have no Male Issue at your Death, she and hers may be vertue of this Deed succeed to you in your Estate and Honours; to which the said Earl answered, and Swore, That as he should answer to God, he would perform it; and wished, that if ever he should make a Right, or other Entail to any other person in prejudice of the said Countess, he wished the person might be Accursed, and the Family might Perish: This was done in the presence of the late Lord *Burke*, the late Lord *Rutbuan*, and the Laird of *Ferrygrie*, Mr. *Hooper*, and divers others.

My Lady *Ruthvan* and Mrs. *Law*, who are yet alive, were also present: So the said Earl Thanked his Daughter for her Confidence in him; and answered her, That he would not abuse his Trust.

Notwithstanding of this, the said Earl having Married twice after the Decease of his first Lady; and having by his third Lady several Sons and one Daughter, was prevailed with by his third Lady, after the death of all her Sons, to make a new Entail to his Daughter by her, in the year 1671. or 1672. by which he cut off his Eldest Daughter the said Countess and her Posterity (as if they had been Bastards) from having any Right Title or Claim to succeed in his Family; which was a Deed so contrary to the Law and Customs of the Nation, and to Equity, Reason, and his solemn Oaths; which it seems he had forgotten, it being more then twenty years, from the time he made those Oaths and Promises, to that year in which he broke them, by making this new Entail to his youngest Daughter Lady *Margaret Weyms*, whom he gave in Marriage to Sir *James Weyms*, who by the Duke of *Monmouth's* Moyer with the King, was afterwards made Lord *Brantford*.

It is also to be considered, That the said Countess did Address her self to her said Father the Earl of *Weyms*, before this New Entail to her prejudice was completed, of her Sister Married, protesting to his Lordship, That if he would continue the former Entail, and not alter it to the prejudice of her and her Children, that she would procure for her Sister the said Lady *Margaret*, one of the Noblest Matches of the Kingdom, who would promote her to greater Honours and Estate than the Family of *Weyms* could render, and who would be satisfied with the Lordship of *Bothwell*, which was a part of the Earl of *Forfars* Estate as a sufficient Portion with the said Lady *Margaret*, and the rest of the said Earls Estate might go as Addition to the Estate of *Weyms*; so that the said Countess and he might succeed in that Family. But the said Earl of *Weyms* told his Daughter, That he was bound to make this New Entail to his Youngest Daughter, else he could not please his Wife nor have peace at Home: Saying also, That he could not contend with his Wife and her Friends, being now broken with Grief for the Death of his Ten Sons, and being infirm with Old Age, being then sixty and two Years, and was truly failed both in Memory and Judgement so, that when the said Countess desired him to Remember the Promises and Oaths that he made to her and her Mother when Dying, that it might not trouble him when he came to dye, if he should break these Oaths and Promises: Upon which he knocked upon his Breast and said, Oh Daughter you wound me to the Heart in putting me in mind of those things which I had absolutely forgot; and so ran out of the Room in a great disturbance: And he was so prevailed with by his Lady and the said Lord *Brantford*, who was then present with him, that they would never suffer the said Countess to have access to speak to him any more, lest his Heart should have relented towards her: Yea, they took him sworn that he should not so much as receive a Letter from his Eldest Daughter, who did writ to him & to his Lady, but the Letters were sent back without being opened: And when the said Earl of *Weyms* went on to pass the Signature he had made to his Youngest Daughter before the Kings Exchequer, notwithstanding that one came from the Earl of *Forfar* and his Friends, requesting up a sight of the said Signature before it should pass, as being the Eldest Son of the Eldest Daughter of the said Earl of *Weyms* yet contrary to all Law this was denied him, which made the said Earl of *Forfars* Agent protest for Remedy in Law, before Session or Parliament: But the Earl of *Rothes*, being then Chancellor and Uncle to the said Lady *Margaret*, would not suffer the said Agent to have the Benefit for the Earl of *Forfar*, that the Law did allow in such Cases, but hastened the passing of

of the said Signature before it was three days affixed upon the V Vall, according to the usual Customs. Therefore the said Countess of Sutherland has her Recourse to the Kings Majestie, Commissioner, and to the High Court of Parliament, hoping that by his Princely Goodness and their Justice they will cognoce the matter, so as to remedy the wrongs done to the said Countess and her Children, and to preserve the legal Succession in the right Line in this Antient Family, (being Lineally descended from the second Son of the Famous *Macduff* Thaine of *Fife*, who restored King *Malcolme* *Grammore* to the Crown of *Scotland*, and killed the Usurper *Macbeth*) so the said Countess and Earl of Sutherland, with the Earl of *Forfar* and Lord *Strathmore*, do humbly Implore the Justice of the said High Court of Parliament in this behalf, it being not Justifiable nor Lawful to suffer a man in his old Age, having then lost his Memory and Judgement, to wrong his Lawful Successor, contrair to the first Entail made in her Favours, and the Oaths made by the said Earl, to creat a Confidence in his Daughter, to give up the Entail made in her Favours to him: So that this new Entail made to her prejudice, is an Act of great Rigour and Injustice, and without any Precedent or Example, since by the said Entail Strangers are preferred to her and her Children, and she and hers totally cut off from succeeding therein: And that by the false Acculations made of the said Countess to her Father.

It is also to be considered, That the said Countess has a Right and Just Claim unto Considerable Sums of Money that were due to her second Brother, *Alexander Weyms*, and to her Sister Lady *Mary*, as Bands of Provision made to them and their Heirs, by the Deceased Earl of *Weyms* their Father, who made those Provisions for them before he Married a second Lady, and delihered them to the Custody of *Robert* Lord *Burly* their Grandfather, to be kept for the Benefit of them and their Heirs, which Bonds will amount to by Principal, and Annualrent to the Sum of 15000 pound *Sterling*, which the said Countess as Sister German, and Heir to the said *Alexander* and Lady *Mary*, increats a Sentence of Parliament, against her said Sister Lady *Margaret Weyms*, who possesses the whole Estate of *Weyms*: And has given the said Countess no Satisfaction for the said Bonds; nor any part of her said Fathers Estate; all that she Received being only her Mothers Portion, with a certain Sum, that her Aunt the Deceased Viscountess of *Strathmore* left her, which was payed to the Deceased Earl of *Angus*, as Portion with his said Lady, she having Brothers then alive.

It is also to be Considered, That the Estate of the Barledom of *Weyms* is considerable enough, to suffer Division betwixt the two Sisters; since the casual Rent of Coal and Salt is Reckened to be sixty Thousand Merks by year; And hath Rendred no less, (as is informed,) these two years bygone, notwithstanding the V Var: So that in a peaceable time, it might render much more. This is over and besides the Land Rent which is considerable enough, as is well known to all the Noblemen and Gentlemen in *Fife*.

It is also to be considered, That the Delators the said Lady met with from the Lord Chancellor *Roths* in *December* 1679 and *June* 1680, has done her great Prejudice, for then there was alive the V Vriter of the Tailzie and two of the V Vitnelles, and several of those persons that were present, and heard the Terms upon which she committed the said Entail to her Fathers Custody; who are all now Dead, save two V Women. As also the V Vriter and three V Vitnelles of the Bonds were then alive, who for any thing she knows now two of them are Dead, and a 3^d out of the Country, which makes the Discussing of the said Procefs more necessary, lest she drop off her self being now Old and Infirm.

It

Another Artifice used by the Adversaries of the said Countess, is, To make the World believe that the Estate of *Weymfs* was so ruined with Debts, that the Lord *Brunt-Island* and the late Countess of *Weymfs* did recover the same by the great Sums of Money they brought to the Family. Ans: 1. There was not so great Burdens on the Family as is suggested; and whatever was on it of Debt, was brought on by the publick Calamity in the Usurpers time: For which the Countess of *Surbeeland* should not be punished, for it was in good Condition at her Mothers Death. And as to the Sums of Money brought to the Family by the said *Brunt-Island*, it is but false Alledgance, which the Earl of *Weymfs* was induced to acknowledge to give as pretence to the said Lord for his succeeding in the Family to Defraud his Eldest Daughter: For it is nottarily known that the said Lord brought no Money to the Family but thirty thousand Marks, which purchased the Cattle of *Bruntisland* and the Lands about it: For the Leases that the General Artillery had in *England* did soon expire after the Lord *Brunt Island* Married the said Lady *Margaret Weymfs*. And for the Countess of *Weymfs* ~~adding~~ so much Debt of my Lord *Weymfs*: Its Answered, That she did it with his own Rents, and took Assignations blank to all these Bonds; by which she designed to dispose of that Ancient Family to whom she pleased, and to defraud her Lords Eldest Daughter totally.

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Unto His GRACE
THEIR
MAJESTIES
HIGH COMMISSIONER
And the Right Honourable the ESTATES
OF
PARLIAMENT:

JEAN Countess of *Sutherland*, and the Earl of
Sutherland her Husband for his Interest.

Humbly sheweth,

That whereas the Estate of *Weyms* by the antient Rights being provided to the Heirs whatsoever; And the late Earl of *Weyms*, the Countess of *Sutherland*'s Father, having a design that the Estate should descend to his Heirs after the same manner; with the difference only. That the Eldest Heir Female should succeed without Division: He makes a Tailzie in the year 1649. By which the Estate was provided to the Countess of *Sutherland*, then Countess of *Angus*, the said Earl of *Weyms* his eldest Daughter failing Heirs Male of his own Body: Which Tailzie was delivered to the Countess of *Sutherland*, and was a considerable time in her Custody: But when her Mother became *Valetudinary*, and was upon her death Bed: The Earl her Husband having dealt with her to perswade her Daughter to give up the Tailzie to her Father, (not of design to destroy it) but only to be kept by him, to be made forth coming for the Countess of *Sutherland*'s behoove, in case he should have no Heirs Male of his own Body: And the Mother having interposed with the Countess of *Sutherland* her Daughter, then Design'd Lady *Angus*, to deliver the Tailzie to her: And she having then two Brothers alive, and so had not the Immediate Interest to succeed: She upon that consideration; as also being unwilling to displease her Mother, who was then very Sick, and upon death Bed, delivered to her Mother the Tailzie: And she gave it up to the Earl of *Weyms* her Husband upon this express condition, that he should keep it entire, and that the Countess of *Sutherland* should succeed by virtue thereof, in case he had no Heirs Male of his own Body: which the Earl not only promised, but confirmed his Promise by a solemn Oath: And further added, that if ever he should make any other Right, or Entail in favours of any other person in prejudice of his eldest Daughter, He wished the person might be Accursed, and the Family might perish: And this was done in presence of several persons.

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